

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2022.03
COMPLAINT INVESTIGATOR: Connie Rahe
DATE OF COMPLAINT: April 2, 2003
DATE OF REPORT: May 2, 2002
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 25, 2003

COMPLAINT ISSUES:

Whether the Fort Wayne Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, by not administering tests to the Student in the resource room.

FINDINGS OF FACT:

1. The Student is fourteen years old, attends the local middle school (the School), and qualifies for special education and related services under the category of learning disability.
2. At a CCC meeting on March 27, 2002, the current IEP was written, and included an initiation date of August 19, 2002. The current IEP states, under the *Testing Adaptations* section of the *Modifications/Supports Checklist*, tests are to be read to the Student, and tests are to be administered by a resource person. There are no modifications inserted in this section to indicate exceptions to this accommodation. The current IEP states, under the General Education Participation section, "Use of resource room as needed." There is no reference in this statement to specific services for the Student. The School maintains that the Student was to determine if tests were to be read by a resource person.
3. The Academic Plan Review form was completed in the CCC meeting of April 19, 2002, subsequent to the current IEP being written March 27, 2002. The Complainant and School disagree regarding whether this is an attachment to the IEP. The Complainant cites the *Modifications/Revisions* section of the *Academic Plan Review* form, which states the Student, "...shall not have an option to use the resource room for tests. She must go." Proper representation was present for the CCC meeting on April 19, 2002. The form was developed for use with a behavior intervention plan (BIP).
4. The resource service log indicates a resource person has not read all tests to the Student since January 23, 2003, and the Complainant and School acknowledge that the Student has been tested after that date in the classrooms by general education teachers.

CONCLUSIONS:

1. Findings of Fact #2 through #4 indicate that the Student's IEP requires the accommodations of having tests read to the Student and administered by a resource person. No exceptions to testing accommodation are addressed in the current IEP. While the *Academic Plan Review* form was initially

intended to assist in modifying a BIP, it is unclear as to whether this revised form was intended to modify the current IEP, with initiation date of August 19, 2002, or whether it may have been intended to modify the IEP that was in effect when this form was completed by the CCC, or if it was used for some other purpose. With regard to both documents, it is the obligation of the School to complete IEP forms and related information in such manner that there is no doubt as to the intent of the IEP. Finding of Fact #4 indicates a resource person did not read all tests to the Student subsequent to January 23, 2003. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to implement the student's IEP, as written, by not having a resource person read all tests to the Student.

CORRECTIVE ACTION:

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

The Fort Wayne Community Schools shall:

1. Convene a CCC meeting to review and revise the student's last agreed upon IEP, with regard to specific accommodations and modifications that may be needed to address testing accommodations for the Student. A detailed summary of the CCC discussion and determinations shall be included in the IEP. The CCC shall meet by May 30, 2003, and a copy of the IEP/CCC summary shall be forwarded to the Division by June 12, 2003.
2. A memorandum shall be distributed to all case conference coordinators for the local school district informing them of the School's responsibility to complete IEP forms and related information in such manner that there is no doubt as to the intent of the IEP and no doubt as to the intent of the relationship of other documents to the IEP.

The memorandum shall be distributed to all case conference coordinators by May 7, 2003. A copy of the IEP/CCC summary, a copy of the memorandum, and a list of recipients of the memorandum shall be forwarded to the Division by June 12, 2003.